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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,507	12/01/2004	Martin Loessner	05146.0003U2	5123
	7590 01/17/200 DSENBERG, P.C.	EXAMINER		
SUITE 1000	,	SINGH, SATYENDRA K		
999 PEACHTR ATLANTA, GA			ART UNIT	PAPER NUMBER
, -			. 1657	
SHORTENED STATUTOR	Y PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
31 DAYS . 01/17/2007 PAPER		PER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Application No.	Applicant(s)			
Office Action Summary		10/516,507	LOESSNER ET AL.			
		Examiner	Art Unit			
	-	Satyendra K. Singh	1657			
	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status		,				
2a)□	Responsive to communication(s) filed on <u>01 De</u> This action is <b>FINAL</b> . 2b)⊠ This Since this application is in condition for allowant closed in accordance with the practice under E	action is non-final. ace except for formal matters, pro				
Dispositi	on of Claims					
5) 6) 7)	Claim(s) <u>49-95</u> is/are pending in the application 4a) Of the above claim(s) is/are withdraw Claim(s) is/are allowed. Claim(s) is/are rejected. Claim(s) is/are objected to. Claim(s) <u>49-95</u> are subject to restriction and/or	vn from consideration.				
Applicati	on Papers					
10) 🗌	The specification is objected to by the Examiner The drawing(s) filed on is/are: a) acce Applicant may not request that any objection to the o Replacement drawing sheet(s) including the correcti The oath or declaration is objected to by the Examiner	epted or b) objected to by the Edrawing(s) be held in abeyance. See on is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).			
Priority u	nder 35 U.S.C. § 119					
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>						
2)	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal Pa	te			

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## **DETAILED ACTION**

1. Applicant's amendments to the claims filed with the office on December 1<sup>st</sup> 2004 is duly acknowledged.

Claims 49-95 (newly presented) are pending in this application.

## Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

**Group I**, claim(s) 49-66, and 69, drawn to a composition comprising phage **P100** (as recited in claim 63 and 69) and method of using said composition (as recited in claim 49) for controlling *Listeria* contamination.

**Group II**, claim(s) 67 and 68, drawn to a second method of using phage P100 for treating an animal infected with *Listeria monocytogenes*.

**Group III**, claim(s) 70-81, and 94-95, drawn to a third method of using phage **P100** (as recited in claim 70) for detecting the presence of *Listeria monocytogenes*.

**Group IV**, claim(s) 82, 89, and 90-93, drawn to a second product, purified endolysin protein derived from phage P100 (see claim 82).

**Group V**, claim(s) 83, and 84-88, drawn to a method of using purified endolysin protein derived from phage P100 (see claim 83).

3. (a) An international or national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those

invention involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the PRIOR ART.

- (b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:
- (1) a product and a process specially adapted for the manufacture of said product; or
  - (2) a product and a process of use of said product; or
- (3) a product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
- (4) a process and an apparatus or means specifically designed for carrying out said process; or
- (5) a product, a process specially adapted for the manufacture of the said product and an apparatus or means specifically designed for carrying out said process.(c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.
- 4. The groups of inventions (I-V) do not fall under any of the categories mentioned above. The inventions of groups (I-V) are drawn to multiple inventions directed to multiple products (a composition comprising phage P100 verses a purified endolysin

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protein) and methods of using said products, thus lacking the unity of invention, as

claimed.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143). Applicant is also reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satyendra K. Singh whose telephone number is 571-272-8790. The examiner can normally be reached on 9-5MF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Satyendra K. Singh Patent Examiner Art Unit 1657 SANDRA E. SAUCIER
PRIMARY EXAMINER

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